

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KUN SHAN PENG,

Petitioner,

VS.

JAMES TILTON, Director of the
California Department of
Corrections; BEN CURRY, Warden,


On September 18, 2007, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 3, 2010, the Court granted respondent's motion to dismiss the petition as barred by the applicable one-year statute of limitations, and entered judgment. Petitioner has now filed a notice of appeal from the entry of judgment in respondent's favor and a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). Petitioner has not shown, however, "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, the request for a certificate of appealability is hereby DENIED.

1 The Clerk shall forward this order, along with the case file, to the United States Court
2 of Appeals for the Ninth Circuit, from which petitioner may also seek a certificate of
3 appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

4 This order terminates Docket No. 32.

5 IT IS SO ORDERED.

6 DATED: October 20, 2010

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MAXINE M. CHESNEY
8 United States District Judge
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